

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION**

EURONDA ROBERTSON,)	
)	
Plaintiff,)	CIVIL COMPLAINT
)	
v.)	
)	CASE NO.
PREMIER BANKCARD, LLC,)	
)	
Defendant.)	
)	JURY DEMAND

COMPLAINT

Now comes EURONDA ROBERTSON (“Plaintiff”), complaining as to the conduct of PREMIER BANKCARD, LLC (“Defendant”), for its unlawful conduct as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages pursuant to the Telephone Consumer Protection Act (“TCPA”) under 47 U.S.C. § 227 *et seq.* and Tennessee common law.

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the TCPA. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1337 as the action arises under the laws of the United States.

3. Venue is proper in the Court pursuant to 28 U.S.C. § 1391 as the substantial portion of the events giving rise to the claims occurred within the Western District of Tennessee.

PARTIES

4. Plaintiff is a natural person residing within this District.
5. Plaintiff is a “person” as defined by 47 U.S.C. § 153(39).
6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principles, trustees, sureties, subrogees, representatives, and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

7. Earlier this year, Plaintiff began receiving phone calls from Defendant regarding a purported debt.
8. Upon reference, Defendant uses an automatic telephone dialing system (“ATDS”) to place calls.
9. On March 8, 2019, Plaintiff received one such phone call from Defendant on her personal cell phone.
10. Defendant’s agent asked Plaintiff if he were speaking with Euronda Robertson, to which Plaintiff replied, “Yes, please stop calling.”
11. This constitutes express withdraw of any purported consent by Plaintiff to be contacted by Defendant in this manner.
12. Defendant continued to harass Plaintiff with calls to Plaintiff’s cell phone.
13. On March 28, 2019, Plaintiff called Defendant in demanded that Defendant cease and desist harassing Plaintiff with phone calls.

14. Defendant's agent answered the phone call and required Plaintiff to confirm her identity by providing Plaintiff's name and Social Security Number, to which Plaintiff complied.

15. Defendant's agent then requested Plaintiff further confirm her identity by providing Plaintiff's home address, to which Plaintiff replied, "I just want you all to quit calling me please. Thank you."

16. Defendant continued to harass Plaintiff with phone calls.

17. Defendant placed a total of 72 separate phone calls to Plaintiff's personal cell phone after Plaintiff expressly withdrew any purported consent to be contact by Defendant.

COUNT I – AUTODIALER VIOLATIONS OF THE TCPA

18. Plaintiff's reallege the paragraphs above as if fully set forth herein.

19. The TCPA, pursuant to 47 U.S.C. § 227(b)(1)(A), prohibits calling persons on their cellular phones using an ATDS without their prior express consent.

20. The TCPA, under 47 U.S.C. § 227(b)(1), defines an automatic telephone dialer system ("ADTS") as "equipment which has the capacity ... to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers."

21. The volume of calls placed by Defendant to Plaintiff, especially after Plaintiff expressly withdrew consent to be contacted by Defendant, indicates that Defendant employed an ATDS to place its calls to Plaintiff's phone.

22. Plaintiff gave express notice to Defendant on March 8, 2019, that Plaintiff withdrew any purported consent to be contacted by Defendant via an ATDS.

23. Plaintiff again gave express notice to Defendant on March 28, 2019 that Plaintiff withdrew any purported consent to be contacted by Defendant via an ADTS.

24. Defendant violated the TCPA by placing at least 72 phone calls to Plaintiff's personal cell phone using an ATDS after Plaintiff withdrew consent.

25. Defendant was on notice that Plaintiff withdrew consent to be called, making Defendant's conduct in violating the TCPA knowing and willful.

26. Plaintiff is entitled to \$500 per call under this count, trebled for knowing or willful violations.

COUNT II—INVASION OF PRIVACY

27. Tennessee common law permits a cause of action for invasion of privacy where one unreasonably intrudes, physically or otherwise, upon the solitude or seclusion of another if the intrusion would be highly offensive to a reasonable person.

28. Defendant intruded upon Plaintiff's seclusion by placing a total of 72 phone calls to Plaintiff's cell phone after Plaintiff expressly withdrew any purported consent to be contacted by Defendant.

29. Defendant's harassing conduct of placing 72 phone calls to Plaintiff's phone was highly offensive to Plaintiff.

30. A reasonable person would also be highly offended by receiving 72 unsolicited phone calls.

31. Plaintiff suffered actual noneconomic harm in the form of emotional distress, anxiety, and frustration as a result of Defendant's conduct.

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Declaring that the practices complained herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Plaintiff statutory damages in the amount of \$500 per violation of the TCPA;
- c. Awarding Plaintiff treble damages for willful or knowing violation by Defendant of the TCPA;
- d. Awarding Plaintiff actual noneconomic damages in an amount to be determined at trial;
- e. Awarding Plaintiff punitive and exemplary damages to the extent provided by law;
- f. Awarding Plaintiff the costs of this action; and
- g. Awarding Plaintiff any other relief as the Honorable Court deems just and appropriate.

A TRIAL BY JURY IS DEMANDED.

Dated: June 20, 2019

By: s/ Michael Ryan Franz
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**pro hac vice to be submitted.*